

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES

-against-

JONATHAN GHERTLER

Defendant.

ORDER

23-cr-100 (ER)

On November 28, 2023, Ghertler filed a *pro se* letter motion for compassionate release on the basis that he had not been able to see a doctor since he was detained, and he asked to be released to live with his fiancée in Florida with an ankle monitor so that he could obtain medical treatment for his leukemia.¹ Doc. 48-1. He filed a supplemental letter on January 1, 2024 noting that his attorney, Lisa Scolari, had stated she would not file a motion on his behalf without access to his prison medical records, but those records had not yet been obtained, and he did not wish for the Court to wait on those records before deciding his motion. Doc. 48-2.

The prison released Ghertler's medical records on January 2, 2024, and Scolari summarized those records in a letter to the Court on January 4, 2024. Doc. 50. In relevant part, Scolari stated that Ghertler had informed the prison of his leukemia and multiple sclerosis at his medical intake interview on October 28, 2024, Scolari sent the prison a copy of Ghertler's medical records of leukemia on December 14, 2024, and the prison reviewed those records four days later on December 18, 2024. *Id.* at 1–2. Moreover, Scolari asserts that Ghertler has not

¹ Ghertler also noted in his letter motion that he had not yet been designated to a prison and had been held in the Metropolitan Detention Center in Brooklyn since October 27, 2023. Doc. 48-1 at 1. He asked that the Court order his designation. *Id.* The Government has represented that Ghertler has since been designated to Federal Medical Center Butner ("FMC Butner"), a prison hospital facility in North Carolina with full capabilities to treat cancer patients, and will be transferred within the next week. Doc. 51 at 1.

received leukemia treatment while detained, and therefore “a grant of his compassionate relief motion is the only way that Mr. Ghertler will receive the treatment he needs.” *Id.* at 2.

At the Court’s direction (Doc. 49), the Government filed a response to Ghertler’s motion for compassionate release on January 10, 2024 (Doc. 51). The Government argued that there remain “substantial questions about whether [Ghertler] has, in fact, been diagnosed with leukemia,” but, in any event, Ghertler would be transferred to a prison hospital facility within the next week and would be able to obtain treatment if he does have leukemia. *Id.* at 1, 7. Ghertler’s medical records do not reflect any diagnosis for leukemia; rather, his “claims that he has leukemia are largely based on his own self-reporting of symptoms and diagnosis.” *Id.* at 6–7. And, as Ghertler is a “prolific fraudster” with “a history of lying about his medical condition in order to obtain leniency at sentencing,” the Court should not give Ghertler “the benefit of the doubt in the absence of a definitive diagnosis.” *Id.* at 7. “Moreover, given the brazen nature of [Ghertler’s] fraud and the near certainty that he will recidivate if released, the Section 3553(a) factors weigh heavily against early release.” *Id.* at 1; *see also id.* at 8–9.

Given that Ghertler’s only arguments for compassionate release concerned his alleged inability to access medical care for his leukemia,² but he will shortly be transferred to a prison hospital facility where he will be able to receive treatment to the extent required, the Court does not find that release is warranted at this time. Ghertler’s motion is therefore denied.

SO ORDERED.

Dated: January 11, 2024
New York, New York



Edgardo Ramos, U.S.D.J.

² Given his imminent transfer to FMC Butner, the Court need not weigh in on Ghertler’s medical diagnosis.